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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/380,032	11/09/1999	TAKASHI TAKAMI	Q55529	2082

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EXAMINER

FIORILLA, CHRISTOPHER A

ART UNIT	PAPER NUMBER
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1731

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DATE MAILED: 09/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/380,032

Applicant(s)

TAKAMI ET AL.

Examiner

Christopher A. Fiorilla

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2002 and 08 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 19, 20, 27-36, 40, 41 and 46-53 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-39 and 42-45 is/are allowed.
- 6) ☒ Claim(s) 14-18 and 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. Claims 1-13,19,20,27-36,40,41 and 46-53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 13.
2. Claim 14 is objected to because of the following informalities: The phrase defining the boundaries of the term “y” in claim 14 contains a typographical error. The number “6.1” should be changed to “1.6” as recited in original claim 14. Appropriate correction is required.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. Claims 14-17 and 21-25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 09-115715.
5. Claims 14-18 and 21-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 98/38654.
6. Applicant's arguments filed 7/1/02 have been fully considered but they are not persuasive.

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With respect to the rejection of the claims under 35 USC 102(b) over JP 09-115715 applicants argue:

JP 09-115715 teaches a ferrite magnetic powder with a hexagonal magnetoplumbite main phase having a basic composition represented by the formula $(A_{1-x}R_x)O \cdot 6z[(Fe_{1-y'/2}M_{y'/2})_2O_3]$, in which $0.0033 < y'/2 < 0.0375$ and $4.2 < 6z < 7.2$.

This argument is not persuasive. It is assumed that applicants are alleging that the formulas disclosed in the claims and the cited references are different (although this is not actually stated in applicants' arguments). However, by substituting the x,y and z (or n) values into the claimed formula and the formula disclosed by JP '715 it is apparent that these formulas overlap and thus the claimed formula is not distinguished from the formula in JP '715. See below.

	<u>Claim 14</u>	<u>JP '715</u>
A	0.55-0.96	0.6-0.99
R	0.04-0.45	0.01-0.40
O	19	16-19
M	0.0028-0.54	0.00076-0.03
Fe	0.808-14.35	9.7-11.97

JP '715 is completely silent regarding Co as the M element, though JP '715 discloses Sr as the A element and La as the R element.

This argument is not persuasive. The claims as written do not require the presence of Co.

JP '715 fails to teach the influence of the addition time of the R element and/or the M element to achieve the desired magnetic properties of the resultant sintered ferrite magnets.

This argument is not persuasive. This argument is not commensurate in scope with the claims. The claims do not require any specific material properties. Note further that the addition

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of specific property limitations to the claims after final rejection would be considered as raising new issues.

With respect to the rejection of the claims under 35 USC 102(b) over WO 98/38654 applicants argue:

Since the composition of the ferrite powder of the present invention overlaps with that disclosed in WO '654, Applicants submit certified English translations of the present application's priority documents. Applicants specifically refer to claim 5 of JP '662, Example 3 of JP '552 and Example 1 of JP '998.

These translations do not overcome the rejection of record. The priority documents all disclose and claim compositions that include a definition of the "R" term of the composition that includes indispensable elements. See claim 5 of JP '662 which recites Nd, Pr or Ce is an indispensable element. The present claims do not include such a limitation and thus are not supported by these documents.

7. Claims 37-39 and 42-45 are allowed.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Fiorilla whose telephone number is 703-308-0674. The examiner can normally be reached on M-F, 6:30am-3:00pm, but works a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Christopher A. Fiorilla
Primary Examiner
Art Unit 1731

caf
August 30, 2002